

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEVIN LAMONT HARRIS,

Defendant-Appellant.

UNPUBLISHED
September 4, 2003

No. 239871
Jackson Circuit Court
LC No. 99-092226-FH

Before: Markey, P.J., and Cavanagh and Saad, JJ.

MEMORANDUM.

Defendant was convicted by a jury for delivery of less than 50 grams of cocaine. MCL 333.7401(2)(a)(iv). We affirmed, but the Supreme Court vacated our decision and directed us to remand to the circuit court. The circuit court denied defendant's motion to quash, finding that police had a reasonable, articulable, and particular reason to stop the taxicab in which defendant was riding. Defendant appeals by right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A trial court's findings of fact after at a suppression hearing are reviewed for clear error with due weight being given to inferences drawn from those facts. *People v Oliver*, 464 Mich 184, 191; 627 NW2d 297 (2001). If the trial court was in a superior position to assess the evidence, this Court will defer to the trial court's resolution of factual issues, especially when they involve the credibility of witnesses. *People v Farrow*, 461 Mich 202, 209; 600 NW2d 634 (1999). The application of constitutional standards to uncontested facts is a question of law subject to de novo review. *People v Stevens (After Remand)*, 460 Mich 626, 631; 597 NW2d 53 (2000).

To make a constitutionally proper stop, law enforcement officers must demonstrate a particularized suspicion that the individual being investigated has been, is, or is about to be engaged in criminal activity. *People v Yeoman*, 218 Mich App 406, 410; 554 NW2d 577 (1996). The suspicion must be reasonable, articulable, and based on the totality of the circumstances. *Id.*

Officers have reasonable suspicion sufficient to support an investigative stop where they observe unusual conduct that leads them reasonably to conclude in light of their experience that criminal activity may be afoot. *People v Nelson*, 443 Mich 626, 637; 505 NW2d 266 (1993).

The trial court did not clearly err in finding that the arresting officer was credible. He testified that he observed defendant engage in what appeared to be a drug transaction in front of a house where drug activity was suspected. Where defendant reacted suspiciously in the presence of police and made furtive movements inside the cab, the court could find that the officer had a reasonable, articulable suspicion that defendant was engaged in criminal activity.

We affirm.

/s/ Jane E. Markey

/s/ Mark J. Cavanagh

/s/ Henry William Saad